

6N



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/628,944	07/28/2000	Sergi Yudanov	DCC-10003/04	3611

25006 7590 10/23/2002

GIFFORD, KRASS, GROH, SPRINKLE
ANDERSON & CITKOWSKI, PC
280 N OLD WOODARD AVE
SUITE 400
BIRMINGHAM, MI 48009

EXAMINER

MILLER, CARL STUART

ART UNIT	PAPER NUMBER
----------	--------------

3747

DATE MAILED: 10/23/2002

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/628,944

Applicant(s)

YUDANOV ET AL

Examiner

Miller

Group Art Unit

3747

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on July 29, 2002
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-19 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-19 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 3747

The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

The declaration includes a change in the address of the applicant which has been done in ink and has not been initialed and dated (See MPEP 6.02.01).

Secondly, applicant's "all errors" statement is improper in that the statement does not say that all errors have occurred "withoutetc".

Finally, the declaration has been improperly signed by Mr. Mitchell's legal representative in that the second joint inventor's section should state that it is being executed by William Richard Mitchell of his last address as the inventor and that the declaration is being signed by his legal representative Mrs. Mitchell (full name typed out) and followed by her citizenship, residence and mailing address (See MPEP 605.04 (a)). Also, the 37 CFR 3.73 (b) signature has a similar problem (although this signature is probably not needed) in that it needs to be signed as noted above or, if Mrs. Mitchell is now an authorized Director of the Company, by Mrs. Mitchell under her own name (typed out).

With regard to applicants' Assent By Assignee (Form 17-8) for William Richard Mitchell, this form has a problem similar to the problem noted above in that the signature provided must be that of the authorized Director and, if Mrs. Mitchell is now such a Director, her name should appear as the Director. Furthermore, documents already provided by the applicant seem to indicate that this is the case.

Art Unit: 3747

Claims 1-19 are rejected as being based upon a defective reissue under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

The applicant should note that due to the filing date of this reissue, restriction of the claims as per paper No. 6 was not allowable. Since claim 19 was not properly restricted out of the case and has not been canceled by the applicant an action on the merits of the claim is included in the action below.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.


Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Igashira.

In particular, in Igashira, applicant should refer to column 3, lines 27-45 and column 5, lines 35-48. This disclosure teaches (1) combustion at TDC, (2) correction of timing based upon actual combustion, (3) at least pilot injection at 4 degrees BTDC and (4) main injection at 0 degrees BTDC. From these figures it would have been obvious to use a single injection at between 3 and 0 degrees BTDC to achieve TDC combustion.

Art Unit: 3747

Finally, the examiner required a change in the Certificate of Correction data in the previous office action and this change was not made. In particular, the corrections should have been placed into the body of the reissue specification without the use of underlining or bracketing. This can be done, of course, through an amendment to the specification.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl S. Miller whose telephone number is (703) 308-2653.



Carl S. Miller
Primary Examiner

CSM

October 22, 2002